



General Assembly

February Session, 2006

Amendment

LCO No. 5290

HB0521205290SD0

Offered by:
SEN. MCDONALD, 27th Dist.

To: House Bill No. 5212

File No. 566

Cal. No. 409

"AN ACT CONCERNING FREEDOM OF THE PRESS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2006*) As used in sections 1 to
4 6, inclusive, of this act:

5 (1) "Information" has its ordinary meaning and includes, but is not
6 limited to, any oral, written or pictorial material, whether or not
7 recorded, including any notes, outtakes, photographs, video or sound
8 tapes, film or other data of whatever sort in any medium; and

9 (2) "News media" means:

10 (A) Any newspaper, magazine, book publisher, news agency, wire
11 service, radio or television station or network, cable or satellite or other
12 transmission system or carrier, or channel or programming service for
13 such station, network, system or carrier, or audio or audiovisual
14 production company that, on an ongoing basis, disseminates

15 information to the public, whether by print, broadcast, photographic,
16 mechanical, electronic or any other means or medium, but does not
17 include an Internet website that displays the postings by one or more
18 individuals about a particular topic;

19 (B) Any person who has an associate's or bachelor's degree in
20 journalism from an accredited college or university and is or has been
21 engaged in gathering, preparing or disseminating information to the
22 public for any entity included in subparagraph (A) of this subdivision
23 or any other person supervising or assisting such person with
24 gathering, preparing or disseminating information; or

25 (C) Any parent, subsidiary, division or affiliate of any person or
26 entity included in subparagraph (A) or (B) of this subdivision to the
27 extent the subpoena or other compulsory process seeks the identity of
28 a source or the information described in section 2 of this act.

29 Sec. 2. (NEW) (*Effective October 1, 2006*) No judicial, executive or
30 legislative body with the power to issue a subpoena or other
31 compulsory process may compel the news media to testify concerning,
32 or to produce or otherwise disclose, any information obtained or
33 received in confidence by the news media in its capacity in gathering,
34 receiving or processing information for potential communication to the
35 public or the identity of the source of any such information, or any
36 information that would tend to identify the source of any such
37 information, unless such judicial, executive or legislative body
38 complies with the provisions of section 3 of this act.

39 Sec. 3. (NEW) (*Effective October 1, 2006*) (a) Prior negotiations with
40 the news media shall be pursued in all matters in which the issuance of
41 a subpoena to, or the initiation of other compulsory process against,
42 the news media is contemplated for information described in section 2
43 of this act or the identity of the source of any such information, or any
44 information that would tend to identify the source of any such
45 information.

46 (b) If the news media and the party seeking to compel disclosure of

47 information described in section 2 of this act or the identity of the
48 source of any such information, or any information that would tend to
49 identify the source of any such information, fail to reach a resolution,
50 a court may compel disclosure of such information or the identity of
51 the source of such information only if the court finds, after notice to
52 and an opportunity to be heard by the news media, that the party
53 seeking such information or the identity of the source of such
54 information has established by clear and convincing evidence:

55 (1) That (A) in a criminal investigation or prosecution, based on
56 information obtained from other sources than the news media, there
57 are reasonable grounds to believe that a crime has occurred, or (B) in a
58 civil action or proceeding, based on information obtained from other
59 sources than the news media, there are reasonable grounds to sustain a
60 cause of action; and

61 (2) That (A) the information or the identity of the source of such
62 information is critical or necessary to the investigation or prosecution
63 of a crime or to a defense thereto, or to the maintenance of a party's
64 claim, defense or proof of an issue material thereto, (B) the information
65 or the identity of the source of such information is not obtainable from
66 any alternative source, and (C) there is an overriding public interest in
67 the disclosure.

68 (c) A court of this state shall apply the procedures and standards
69 specified by this section to any subpoena or other compulsory process
70 whether it arises from or is associated with a proceeding under the
71 laws of this state or any other jurisdiction, except that with respect to a
72 proceeding arising under the laws of another jurisdiction, a court of
73 this state shall not afford lesser protection to the news media than that
74 afforded by such other jurisdiction. No subpoena or compulsory
75 process arising from or associated with a proceeding under the laws of
76 another jurisdiction shall be enforceable in this state unless a court in
77 this state has personal jurisdiction over the person or entity against
78 which enforcement is sought.

79 Sec. 4. (NEW) (*Effective October 1, 2006*) The provisions of section 2
80 of this act protecting from compelled disclosure information described
81 in said section and the identity of the source of any such information
82 shall also apply if a subpoena is issued to, or other compulsory process
83 is initiated against, a third party that seeks information concerning
84 business transactions between such third party and the news media for
85 the purpose of obtaining information described in said section 2 or
86 discovering the identity of a source of any such information. Whenever
87 a subpoena is issued to, or other compulsory process is initiated
88 against, a third party that seeks information concerning business
89 transactions between such third party and the news media, the
90 affected news media shall be given reasonable and timely notice of the
91 subpoena or compulsory process before it is executed or initiated, as
92 the case may be, and an opportunity to be heard.

93 Sec. 5. (NEW) (*Effective October 1, 2006*) Publication or dissemination
94 by the news media of information described in section 2 of this act, or a
95 portion thereof, shall not constitute a waiver of the protection from
96 compelled disclosure provided in section 2 of this act with respect to
97 any information that is not published or disseminated.

98 Sec. 6. (NEW) (*Effective October 1, 2006*) Any information obtained in
99 violation of the provisions of sections 1 to 5, inclusive, of this act, and
100 the identity of the source of such information, shall be inadmissible in
101 any action, proceeding or hearing before any judicial, executive or
102 legislative body.

103 Sec. 7. (NEW) (*Effective October 1, 2006*) Nothing in sections 1 to 6,
104 inclusive, of this act shall be construed to deny or infringe the rights of
105 an accused in a criminal prosecution guaranteed under the sixth
106 amendment to the Constitution of the United States and article twenty-
107 ninth of the amendments to the Constitution of the state of
108 Connecticut."

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>October 1, 2006</i>	New section
Sec. 4	<i>October 1, 2006</i>	New section
Sec. 5	<i>October 1, 2006</i>	New section
Sec. 6	<i>October 1, 2006</i>	New section
Sec. 7	<i>October 1, 2006</i>	New section